

Patent Application No. 10/690,438

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**REMARKS**

Applicant has amended claims 1 and 16. These amendments are supported throughout the application.

**DOUBLE PATENTING**

Applicant acknowledges the double patenting rejection. Applicant shall consider filing a terminal disclaimer upon indication that at least one claim is otherwise allowable.

**SECTION 102 CLAIM REJECTIONS**

According to the Office Action Claims 1, 3, and 9-12 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,593,189 to Little (hereafter referred to as "Little"). Applicant respectfully disagrees.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 *citing* Verdegaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987).

Claim 1 has been amended. Claim 1 now recites a claim limitation that is not disclosed in Little. More specifically, claim 1 recites that the anchor body has a size that is suitable for being inserted into a bone passageway or tunnel. This is clearly different from that disclosed in Little. Little shows a device the size of a human hand. The device shown in Little would not fit in a bone passageway. Additionally, the alleged bone securing structure shown in Little would be larger than any human bone. It would not fit in the bone. For this reason, Little does not disclose the structure recited in Claim 1. Based on the foregoing, Little lacks a claim limitation of Claim 1 and therefore does not anticipate Applicant's claimed invention.

**PEDLICK**

According to the Office Action claims 1, 3, 6, 7, 9, 11 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,885,294 to Pedlick. Applicant respectfully disagrees.

Claim 1 recites a claim limitation that is not disclosed in Pedlick. In particular, Claim 1 recites that the at least three suture retaining apertures extend through the anchor body in a direction transverse to the longitudinal axis. The longitudinal axis extends from the proximal end to the distal end. Accordingly, the three suture retaining apertures extend through the device

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and transverse to the longitudinal axis. Pedlick shows holes extending along and/or substantially parallel to the longitudinal axis. The holes disclosed in Pedlick are thus different than that recited in Claim 1. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection of Claim 1.

BRAMLET

The Office Action also rejects Claims 1, 3, 6, 7, 9, 11 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,849,004 to Bramlet. Applicant respectfully disagrees.

Amended Claim 1 now recites that the apertures are axially spaced such that a distance along the longitudinal axis is present between adjacent apertures. In Bramlet, there is no distance ALONG the longitudinal axis between adjacent apertures because the holes 88, 90 of Bramlet are not axially spaced in this manner. The holes 88, 90 in Bramlet intersect. As indicated above, Applicant has amended Claim 1 to more clearly avoid Bramlet.

Reconsideration and withdrawal of the Section 102 rejection based on Bramlet is requested.

Claim 16 has been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Nos. 1,565,041 to Arney or 1,153,053 to Forster.

Claim 16 recites a claim limitation that is not disclosed in either of the above mentioned patents. In particular, Claim 16 recites 1) that the anchor body is made from a material that is compatible with the human body and 2) that the suture material is made from a material compatible with the human body and suitable for implantation in the human body. The cited patents do not disclose this claim limitation. Indeed, the cited patents are directed to structures that must withstand different environments, namely the ocean and a clothesline for hanging clothes. It is therefore not surprising that these patents do not disclose a structure suitable for a medical implant. They are designed and structured for different environments. Accordingly, Applicant submits that Claim 16 is not anticipated by Arney or Forster. Reconsideration and withdrawal of the rejection is respectfully requested.

The other claims rejected in the above rejection depend from claim 1, 16, or a claim depending thereon. Accordingly, withdrawal of the rejection of all claims under Section 102 is requested.

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Applicant has made a sincere effort to respond to all issues raised in the Office Action. Should a fee be deemed necessary in connection with this matter the Commissioner is authorized to charge Applicant's deposit account no. 50-0359. Should the Examiner have any questions he is urged to contact the Applicant at the below referenced number.

Respectfully submitted,



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